

STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission

In the Matter of:)	DOCKET NO. 96-IRR-1890
)	
Implementation of Restructuring Legislation)	
(Public Utilities Code section 374)	COMMITTEE PROPOSED DECISION
[AB 1890]): Irrigation Districts)	
)	

I. SUMMARY

The California Electric Industry Restructuring Act of 1996, [Stats. 1996, c.854 (AB 1890)], Public Utilities Code section 330 et seq., prohibits governmental entities, such as irrigation districts, from providing electrical service to a retail customer of an electrical corporation unless that customer pays to the electrical corporation a non-bypassable competitive transition charge (CTC). Pursuant to section 374 of the act, this Proposed Decision grants certain exemptions from the CTC to specific California irrigation districts. The Commission is authorized by statute to allocate 110 megawatts (MW) of CTC exemptions among those districts. Applications were submitted by 12 of the 70 eligible irrigation districts. The Commission evaluated the viability of each application and five were selected to receive CTC exemption allocations. The irrigation districts granted the exemptions are: Modesto Irrigation District at 40 MW, Fresno Irrigation District at 15 MW, Laguna Irrigation District at 8 MW, South San Joaquin Irrigation District at 8 MW, and Pixley Irrigation District at 15 MW. The year-by-year allocations of exemptions are set forth in section V of this Proposed Decision.

A notice issued on February 28, 1997, directed all parties to submit any written comments on the Committee Proposed Decision by

March 21, 1997, and stated that the full Commission will consider this Proposed Decision and make a final decision allocating CTC exemptions at a hearing to take place on March 26, 1997.

II. BASIS FOR THE DECISION

Public Utilities Code section 374 specifies that 110 MW of CTC exemptions be divided among the service territories of the three largest electrical corporations in proportion to the number of irrigation districts in each service territory.¹ The statute directs the amount of CTC exemption to be phased in among irrigation districts in each territory over a five year period, beginning January 1, 1997, so that one-fifth of the total allocation within a service territory is granted in each of the five years. The Commission is authorized to allocate the exemptions apportioned to each service territory to those irrigation districts that best meet the requirements of the statute.

The law requires irrigation districts requesting an allocation to file detailed plans with the Commission specifying the loads to be served and requiring specific information on the districts' organization for electrical distribution, contracts, financing and engineering plans for capital facilities. These plans must not be for less than eight megawatts or more than 40

¹ The number of irrigation districts and the available CTC exemption allocations respectively are as follows: PG&E territory, 45 districts, 71 MW; Edison territory, 19 districts, 30 MW; SDG&E territory, 6 districts, 9 MW. The Commission allocated the total available exemptions for the PG&E area. In the Edison area 15 MW were allocated and no exemptions were granted in the SDG&E area. Public Utilities Code section 374 (a)(1)(A) contains no provision for reallocating unused exemptions from one utility service area to another. Therefore, under the statute, the unused exempt load from the Edison and SDG&E service areas is not available for allocation in the PG&E service area.

megawatts.² The Commission must assess the viability of each application and determine whether it can be accomplished in the time frame proposed. In addition to evaluating the criteria noted above, the act also requires the Commission to allocate the CTC exemption load in a manner which best insures its usage within the allocation period.

Irrigation districts applying for exemptions must apply at least 50 percent of each year's allocation to the load used to power pumps for agricultural purposes.³ In addition, CTC-exempt loads must be served by distribution facilities owned by or leased to the district.

Determinations of the viability of an irrigation district's proposal were based on the district providing information regarding: its distribution facilities, its generation resources, the district's likelihood of retaining customers beyond the exemption period, a potential customer base including significant agricultural loads, financial resources, and the district's commitment to implementing its plans. The Committee specified the method for identifying and calculating agricultural pumping load and non-agricultural load, and asked for the districts' present load or, if no present load exists, when service will

² Within a service territory, any portion of the exemption allocation which is not initially allocated may be reallocated without regard to the 40 MW limitation.

³ The Committee has decided that, while the term "agricultural pumping load" is not limited to irrigation, loads for the compression of refrigerants are not considered to be agricultural pumping load. While not used to determine allocations in this Proposed Decision, the Committee recommends that for implementing these exemption allocations in a consistent manner, a conversion factor of 1 horsepower (hp.) = 1 kilowatt (kW) should be used for computing agricultural pumping load.

begin. Districts were further asked to describe in detail how they plan to meet their projected loads for the next five years. Of these factors, those most central to viability involve the quality of information concerning the distribution system and the detail and credibility of the customer load description. The Committee required the applications to be accompanied by a declaration, signed under penalty of perjury by an officer of the district, certifying the accuracy of the information provided.

This Proposed Decision is based upon the requirements of the statute applied to the information received in the applications, to responses to brief written questions contained in the record, and to information provided at the Committee hearing held on February 20, 1997. The statutory language requires the Commission to make allocations to those districts whose plans are most viable while at the same time assisting California's transition to a more competitive electricity market.

III. HISTORY OF THIS PROCEEDING

Public Utilities Code section 374 became effective on September 23, 1996, requiring the Commission to allocate among irrigation districts, up to 110 MW of qualifying load that will be exempt from the obligation to pay the charge established in the same legislation for uneconomic assets of investor-owned utilities.⁴ The Commission referred the matter to the 1996 Electricity Report Committee, comprised of Commissioners David Rohy (presiding) and Jananne Sharpless, who conducted a workshop on November 5, 1996, in Merced, California, to discuss with the irrigation districts and interested public the issues, process and schedule for making the allocations.

Following the workshop, the Committee issued draft

⁴ This charge is known as the Competitive Transition Charge (CTC).

instructions for use by eligible irrigation districts in filing their applications for exemptions. These draft instructions were sent to all interested parties on November 25, 1996, with a request for written comments and notice of a Committee Conference on December 9, 1996. Relying upon the requirements of the statute, as well as the comments of the parties upon the draft instructions, the Committee prepared the final application instructions for CTC exemption allocations, issuing them on December 24, 1996. The instructions required the information specified in the statute, plus additional information necessary for the Committee to determine whether each district's application actually met the terms of the statute. Applicants were urged to file detailed information demonstrating the viability of their proposal. On January 13, 1997, the Committee served on all parties written answers to clarifying questions posed by some of the parties about the instructions.

Beginning January 20, 1997, the Committee imposed an ex parte rule, prohibiting off-the-record communication between the parties to the proceeding and the Committee or its advisers. From that date on, written communications between the parties and the Committee were served on all parties and filed in the Commission's Docket Unit. Substantive oral communications were limited to those taking place in a public hearing. As specified by statute, all applications for CTC exemptions were submitted to the Commission by January 31, 1997. On February 7, 1997, the Committee issued, and served on all parties, written questions asking some districts to clarify specific parts of their applications. A hearing on the applications was held on February 20, 1997, at which time the Committee asked specific questions of the irrigation districts about their applications. The hearing was held pursuant to the requirements for an informal hearing set forth in the California Government Code sections 11445.10 et seq. Parties were allowed to question each district's application and applicants made brief closing statements.

IV. EXEMPTION ALLOCATIONS

A. Pacific Gas and Electric Service Territory

Applications for CTC exemptions in the Pacific Gas and Electric (PG&E) service territory greatly exceeded available allocations with 166 MW initially requested and a total of only 71 MW available for allocation. As a result, the Committee had to consider a number of policy objectives. In making the allocations the Committee sought to balance AB 1890's recognition of irrigation districts' statutory authority and past investments existing as of December 20, 1995, a policy of increasing competition in the electrical industry, and the requirement that the Commission assess the viability of applications and allocate to those districts most likely to actually use their allocation of CTC exemptions.

1. Modesto Irrigation District.

Modesto Irrigation District (MID) is already an established electric utility with experience operating its own system including powerplants, transmission and distribution lines, and substations. MID has an experienced staff maintaining its electrical system as well as design engineering capabilities and experience in constructing new facilities. The district has established departments in customer service, metering and billing, as well as a record of providing reliable, competitively priced service. It has its own financing authority and has received "A1" and "A+" debt ratings respectively from Moody's and Fitch, national investment rating services.

In addition, the MID application demonstrates that the district currently serves, or has agreements with, an extensive group of both nonagricultural and agricultural pumping customers to qualify under the statute. The existence of the district's current infrastructure means that CTC exemptions can benefit many

of these customers starting in 1997.⁵ Representatives of Hunt-Wesson, Inc., a large customer located in Oakdale, have committed to be served by the MID system. (2/20/97 RT 57, 61). In addition, the district has signed agreements to provide electrical service to the cities of Ripon, Riverbank and Escalon and toward that end has invested in engineering studies, permits and environmental documentation. MID has clearly made substantial past investments prior to the December 20, 1995, date noted in the statute. Furthermore, the district's application contains a resolution of the MID Board, making a clear commitment of resources to expand the MID service area.

However, in addition to the 40 MW allocation request in its application, Modesto provided alternative requests for 71 MW (the total amount to be allocated in the PG&E service area) and for 110 MW (the total amount to be allocated statewide). Its application stated that the latter two requests depended upon using a broader definition of "agricultural pumping" than that adopted by the Committee in order for MID to meet the requirement that at least 50 percent of the customer load be made up of agricultural pumping. Nevertheless, at the hearing, MID representative Thomas Kimball asserted that even if required to use the Committee's more narrow definition, the district would have sufficient agricultural pumping to support an allocation of 110 MW.

The Committee did not grant MID's higher requests for several reasons. Allocations above 40 MW can only be made from

⁵ By contrast, an irrigation district which presently has no electrical system and no electrical customers may not be in a position by the end of 1997 to take full advantage of its CTC exemptions for the current year.

unallocated load within a service territory.⁶ Since all exemptions within the PG&E service territory have been allocated, there are no further exemptions to grant. In addition, to grant 71 MW of exemption to MID would mean that no exemptions would be available for any other irrigation district with viable plans in the PG&E service area. Finally, the statute limits allocations within electrical service areas, providing only 71 MW to the PG&E area and authorizing no shifts of unused allocations between service areas. Thus, under the statute, the Committee lacks the authority to grant the request for 110 MW of exemption to Modesto.

MID's experience as an electrical utility, its existing distribution facilities, professional expertise, strong and credible customer load for which exemptions were requested, and its financial resources persuade the Committee that CTC exemptions allocated to this district will be used within the allocation period. The Committee therefore allocates 40 MW of CTC exemption to MID.

2. Fresno Irrigation District

Statements made at the February 20, 1997, hearing by representatives of Fresno Irrigation District (FID) demonstrate that the district was looking at alternatives to PG&E service prior to the passage of AB 1890. The district has retained Henwood Energy Services, Inc., an energy management consultant with recent prior experience in assisting Merced Irrigation District's rapid entry into the electrical utility business. Douglas Davis of Henwood stated at the hearing that based on his experience, all services necessary for Fresno to get into the business of electric service are available from multiple competitive suppliers. In his view, once the district makes its

⁶ The statute refers to any portion of the 110 MW of CTC exemptions which has not been allocated to an irrigation district as available for reallocation to another district without regard to the 40 MW limitation.

commitment to proceed, Fresno can be providing reliable, competitive power in a matter of months. (2/20/97 RT 85).

Fresno has also proposed to build a distribution system and substation. The initial portion of this system serving its largest customers will be relatively compact, thus increasing efficiency. The district has obtained preliminary construction estimates and financing plans for this work. FID anticipates the financing of phase one of its system by several large industrial customers from whom the district has commitments. In addition, Fresno filed a list of both industrial and agricultural pumping customers which is ample relative to the allocation granted to the district. Furthermore, the FID Board of Directors has authorized binding agreements with electrical power customers to provide them electrical service.

Fresno's application accounts for a distribution system, includes several large committed industrial customers, and details a substantial list of non-agricultural and agricultural pumping customers. Based on the previously stated strengths of the application, Fresno is deserving of an allocation. Yet, Fresno currently has no generation or distribution system and is not currently providing electrical service. Furthermore, other irrigation districts submitted viable plans which deserved allocations. Fresno's application requested an allocation of 40 MW. However, on balance, given the relative merit of Fresno's plan and the likelihood it will be carried out, the Committee believes that an allocation of 15 MW is justified and is likely to be used within the allocation period.

3. Laguna Irrigation District

As required by statute, the Committee stressed the need for as much detail as possible in the exemption applications since these details tend to reveal the plan's viability. Laguna Irrigation District's (LID) application contained many of the

details required by the Committee's instructions. These included detailed cost estimates for building its distribution system as well as detailed power supply quotes and estimates. The district also has developed more than one plan to finance its costs. LID's customer list is substantial for the size of the exemption allocated and the Committee's confidence in the data is enhanced by the applicant's computations in its application which were carried out in accordance with the Committee's instructions.

Laguna's consultant, Power Exchange Corporation (PXC), has an agreement with Northern California Power Authority (NCPA) to provide resources, power scheduling and coordination. PXC also has electricity supply commitments from Bonneville Power Authority (BPA), Portland General Electric, Arizona Public Service Company, and other generation sources. In addition, PXC and PG&E have entered into a Comprehensive Control Area and Transmission Services Agreement (CATSA) enabling PXC to provide electric service to wholesale customers in PG&E's service territory. Thus, through PXC, Laguna has access to generation resources.

The most significant issue in this district's application is its plan for constructing a distribution system consisting of new transformers, service drop panels, and meters. PG&E argued that such a limited system may not meet Federal Energy Regulatory Commission (FERC) requirements for wholesale transmission service. This matter remains unresolved at present. Furthermore, Laguna's alternative plan of leasing distribution lines from PG&E may not be viable, according to PG&E's comments. (2/20/97 RT 98-99). Nevertheless, at the Committee hearing, LID Manager Doug Rayner made clear that if the first two options are not available, the district will construct a parallel distribution system.

Laguna is clearly committed to using its CTC exemption allocation, as evidenced by its detailed application and the statements of its Board and Manager. The district requested an allocation of 13 MW. However, the four viable applications in the

PG&E service area exceed the amount of exemptions available. Given the analysis of the Laguna application and those of the other viable applicants, as well as the oversubscription for the available exemptions, the Committee grants Laguna Irrigation District an 8 MW CTC exemption.

4. South San Joaquin Irrigation District

As previously noted, details concerning an applicant's distribution system plans and its customer load were considered by the Committee to have particular importance in assessing viability. The South San Joaquin Irrigation District (SSJID) application provided cost estimates associated with building its proposed distribution system. However, the application did not include construction plans for distribution to serve the agricultural pumping portion of their customer load. The district manager stated at the hearing that though leasing distribution lines is their preferred option for servicing these loads, the district is committed to building any necessary facilities if it is unable to lease.

At the Committee hearing, Turlock Irrigation District (TID), which is supporting the SSJID application, made clear that TID would build the proposed nine-mile 115 kV distribution line and may help finance it as well. The SSJID association with TID also makes available to the applicant a number of resources. These include TID's transmission access to Western Area Power Administration (Western), which enables TID, through its participation in the California-Oregon Transmission Project (COTP), to access power markets in the Northwest. Additional connections include PG&E and the City and County of San Francisco's Hetch-Hetchy lines. TID has also indicated it will make available to SSJID 145 MW of TID's hydroelectric power and 100 MW of combustion turbine power for system support and redundancy against outages. SSJID is itself part owner of the 114.1 MW Tri-Dam Hydro facility. This facility is currently under

lease to PG&E but will become available to the district in 2004. The district also has another 6.4 MW at Woodward Reservoir. In the Committee's view, these resources exhibit evidence of the district's commitment to providing electric service since it is likely the SSJID will use the resources to serve customers after the expiration of the CTC exemptions in five years.

The SSJID application also contained detailed estimates for ancillary services and energy costs for 10 years. Agricultural pumping load projections by the district were adequate and persuasive.

Based on the district's access to generation and transmission, the detailed cost estimates for the distribution system and the demonstrated customer load, the Committee finds viability in the SSJID application and believes the district is likely to ensure usage of its 8 MW CTC exemption during the allocation period.

5. Woodbridge Irrigation District

Building a distribution system from the ground up, as well as operating and maintaining it after construction are a physical and financial hurdle that an irrigation district must clear on its path to becoming a functioning electric utility. Because of this, the Committee attached a great deal of weight to a district's demonstrated analysis of cost and its financial resources. However, the Woodbridge Irrigation District (WID) did not provide any plans or descriptions of its proposed distribution system. WID failed to provide any estimates of what the system facilities would cost to construct or to operate when completed. Woodbridge also failed to provide any estimates for the cost of generation. These omissions made it very difficult for the Committee to assure the viability of the application concerning these important points.

The Committee is cognizant of the support Woodbridge has received and would continue to receive from the City of Lodi, an experienced municipal utility. Yet, in spite of this support, the lack of information in the WID application requires the Committee to make its allocation to districts with more specific applications and with greater demonstrated viability.

6. Oakdale Irrigation District

The Committee made no allocation to the Oakdale Irrigation District primarily because the application, particularly after incorporating information received at the February 20, 1997 hearing, barely met the statutory threshold for both non-agricultural and agricultural pumping loads. The uncertainties associated with the district's projections of customer load and the fact that several other districts will be competing for the same customers, raise serious questions about the viability of this application. In fact, one of Oakdale's largest potential customers listed in its application, Hunt-Wesson, announced during the hearing that it intends to become a customer of Modesto Irrigation District. This adjustment in customer load alone jeopardizes Oakdale's ability to meet its 8 MW threshold requirement. Oakdale also listed Hershey as a large customer, yet this company was also listed by other applicants, raising further concerns about the adequacy of Oakdale's projected customer load. Oakdale's geographical location makes it likely that many of its potential customers will be "courted" by other irrigation districts.⁷ In the Committee's view these facts made the Oakdale application unviable and therefore, no CTC exemptions were allocated to Oakdale.

⁷ Under the statute, irrigation districts which serve retail customers may apply their CTC exemptions to any load within Stanislaus and/or San Joaquin Counties.

7. Glenn-Colusa Irrigation District

This application provided no detailed cost estimates for building distribution facilities. In addition, unlike other successful applicants, this district submitted no proposed operating plans for its distribution system. The Committee also noted the lack of a strong commitment to this project by the Glenn-Colusa Board of Directors since its application contained no Board resolution in support of the project. In fact, page 3 of the district's application specifically stated that the district had not fully evaluated the appropriateness or feasibility of the application and reserved the right to amend or withdraw it.

Glenn-Colusa provided no data by which to evaluate the projects' financial viability. Furthermore, it was stated at the Committee hearing that the Glenn-Colusa Irrigation District is struggling to address a large financial obligation to install fish screens. The relationship of this liability to the district's application was not made entirely clear at the hearing. However, it added to the doubts about the viability of the district's proposal. Therefore, the Committee determined that no allocation shall be made to the Glenn-Colusa Irrigation District.

8. Madera Irrigation District

Madera seeks to satisfy the 50 percent agricultural pumping load requirement by claiming that electricity consumed by fans and air compressors in the manufacture of wine bottles meets the definition of agricultural pumping. It does not. Since Madera has not demonstrated any agricultural pumping load as defined by the Committee in its application instructions, it does not qualify for a CTC exemption under the statute.

B. Southern California Edison Service Territory

The portion of the statewide 110 MW of exemption which is available under the statute for allocation in the Edison service territory is 30 MW. While 28 MW of CTC exemption were requested in the three applications listed below, two of the applicants failed to meet the minimum requirements under the law.

1. Pixley Irrigation District

This application provided detailed construction cost estimates for the development of its proposed distribution system. It contained an operating plan for the system, including various options for out-sourcing many functions through contractual arrangements. Pixley also presented a detailed evaluation of various ways in which the district could finance the project. The district has access to generation through its participation in the Success Hydro Project. Further access to generation is available through Pixley's relationship with PXC, which has supply commitments from BPA, Portland General Electric, Arizona Public Service Company and others. In addition, PXC has an executed CATSA with PG&E, allowing PXC to purchase and deliver wholesale power. Pixley's list of nonagricultural and agricultural pumping customers is robust for the size of the exemption requested.

The Committee finds that Pixley Irrigation District is qualified to receive CTC exemptions in the amount of its maximum request of 15 MW.

2. Lower Tule River Irrigation District

Lower Tule River Irrigation District (LTRID) is a member of the Eastside Power Authority and of the Southern San Joaquin Valley Power Authority. As such, the provisions of Public Utilities Code section 374(a)(5) make this district ineligible for the CTC exemptions allocated by the Commission under Public

Utilities Code section 374(a)(1).⁸

LTRID has stated that it is pursuing legislative changes which would make it eligible for a CTC exemption and asks the Commission to make a contingent allocation of otherwise unallocated exemptions. However, because the language of Public Utilities Code section 374 does not authorize it, the Committee cannot recommend a contingent allocation.

3. Palmdale Irrigation District.

This district requested less than the legally required 8 MW minimum exemption and provided no details in its three-page application showing that it satisfies the agricultural pumping requirements of the statute, even for the exemptions requested. Therefore, it does not qualify for any CTC exemption.

C. San Diego Gas and Electric Service Territory

Based on the statute, a total of 9 MW of exempt load was available for allocation in the SDG&E service territory. However, the one application received did not meet the minimum requirements of the statute.

1. San Dieguito & Santa Fe Irrigation District

The one-page application submitted by this district failed to provide adequate details to demonstrate the viability of the district's plan. Furthermore, the exemption request was for less than the 8 MW minimum required in the statute and does not contain any details necessary to demonstrate an agricultural pumping load. For these reasons the application does not meet the requirements of the statute.

⁸ As an Eastside Power Authority member, and as a member of Southern San Joaquin Valley Power Authority, LTRID is subject to the provisions of section 374(a)(3) and is therefore made expressly ineligible for any portion of the 110 MW CTC exemption by the language of section 374(a)(5) of the statute.

V. YEAR-BY-YEAR ALLOCATIONS

Pursuant to statute, the total amount of CTC-exempt load allocated to each utility service area must be phased in over the five year period beginning January 1, 1997, so that one-fifth of the total allocation is allocated in each of the five years. Table 1, labeled Annual Allocations of CTC Exemptions, sets forth the megawatt amount of CTC exemptions for each of the successful

applicants. The allocations do not increase proportionately for every district in each year. For example, in 1997, Modesto is awarded one-fifth of its total allocation, Fresno is granted two-fifths, Laguna and South San Joaquin are allocated nothing. The statute grants the Commission the discretion to allocate the CTC-exempt load in a manner that best ensures its usage within the allocation period. Based on the record, it is not clear that Laguna and South San Joaquin can make use of any allocation of exemptions in 1997. On the other hand, Fresno has at least two large customers who can make use of the exemptions in 1997 and who will assist FID with financing the construction of facilities. While Fresno's total allocation is less than it requested, Fresno's disproportionately large allocation in the early years may help "jumpstart" its program and contribute more to its viability than would an annual allocation which was proportional.

Pixley Irrigation District was the only district in the Edison service territory to receive a CTC exemption allocation. As a result, one-fifth of the Edison area total allocation of 30 MW is available each year to Pixley, until its 15 MW allocation is phased in.

TABLE 1
Annual Allocations of CTC Exemptions

PACIFIC GAS & ELECTRIC SERVICE AREA		1997	1998	1999	2000	2001
Modesto Irrigation District	Award	8	16	24	32	40
Fresno Irrigation District	Award	6	8	11	13	15
Laguna Irrigation District	Award	0	2	4	6	8
S. San Joaquin Irrigation District	Award	0	2	4	6	8
TOTAL PG&E AWARD		14	28	43	57	71
SO. CALIFORNIA EDISON SERVICE AREA		1997	1998	1999	2000	2001
Pixley Irrigation District	Award	6	12	15	15	15
TOTAL EDISON AWARD		6	12	15	15	15

VI. ALLOCATION ORDER

For the reasons noted above the Committee recommends the following total CTC exemption allocations, phased in over a five year period as noted in TABLE 1:

Modesto Irrigation District	40 MW
Fresno Irrigation District	15 MW
Laguna Irrigation District	8 MW
South San Joaquin Irrigation District	8 MW
Pixley Irrigation District	15 MW

Dated: March 13, 1997

ENERGY RESOURCES CONSERVATION
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